

**MINUTES OF THE
GOVERNMENT OPERATIONS
and
POLITICAL SUBDIVISIONS
INTERIM COMMITTEE**

Wednesday, October 21 , 2009 – 9:00 a.m. – Room

Members

Sen. Peter C. Knudson, Senate Chair
Rep. Craig A. Frank, House Cochair
Rep. Fred Hunsaker, House Cochair
Sen. Jon J. Greiner
Sen. Ralph Okerlund
Rep. Douglas C. Aagard
Rep. Sheryl L. Allen
Rep. Ron Bigelow
Rep. Jim Bird
Rep. Ben C. Ferry
Rep. Janice M. Fisher
Rep. Keith Grover
Rep. Neal B. Hendrickson
Rep. Jennifer M. Seelig

Rep. Curt R. Webb
Rep. Larry B. Wiley

Members Absent:

Sen. Scott D. McCoy
Rep. Kerry W. Gibson
Rep. John G. Mathis

Staff Present:

Mr. Benjamin N. Christensen, Policy Analyst
Mr. Joseph Wade, Policy Analyst
Ms. Emily R. Brown, Associate General Counsel
Ms. Victoria S. Ashby, Associate General Counsel
Ms. Wendy Bangerter, Legislative Secretary

Note: A list of others present, a copy of related materials, and an audio recording of the meeting can be found at www.le.utah.gov.

1. Committee Business

Chair Knudson called the meeting to order at 9:09 a.m.

MOTION: Rep. Bird moved to approve the minutes of the September 16, 2009 meeting. The motion passed unanimously. Rep. Allen, Rep. Ferry and Rep. Webb were absent for the vote.

2. 2010 Federal Census Preparations, the State's Role - Update

Mr. Michael Mower, State Planning Coordinator, Governor's Office of Planning and Budget (GOPB), explained what Utah is doing to prepare for the 2010 Census, especially in regards to the hard to reach population.

Ms. Juliette Tennert, State Demographer & Economist, GOPB, explained the main technical focus and efforts of her staff to achieve the most full and accurate census count possible.

Mr. Daniel Pacheco, U. S. Census Bureau, explained he is touring Utah to address questions. He clarified the "Usual Residents Rule" that people are counted where they live and sleep most of the time and that whatever municipality provides services for a person, counts that person in the census. He distributed "10 Questions/Minutes" and "2010 Census: It's in Our Hands."

3. Local Development Impact Fees

Mr. Wade gave a slide presentation explaining impact fees, what they are, who imposes them, requirements and limitations, and exemptions. He explained the difference between impact fees and exaction (in-kind, not cash) and other burdens that affect development. He distributed and reviewed a statutory history of impact fees. He distributed Utah Code Title 11, Chapter 36, Impact Fees Act and posed policy questions for the Committee's consideration.

Senator D. Chris Butters presented examples of problems that citizens have had with impact fees. He expressed his recommendation to have an ombudsman as well as other examinations for how impact fees are set and used.

Ms. Jodi Hoffman, League of Cities and Towns, explained what has been done in recent years to resolve some of the problems resulting from over charging impact fees. She noted that impact fee seminars have been held and legislation is in process to fix some of the incongruities in the law.

Rep. Bigelow asked for specific information regarding individual situations. Staff was directed to gather that information.

Mr. Brent Bateman, Attorney, Office of the Property Rights Ombudsman, explained their objective to involve the legal staff of the ombudsman's office in making recommendations that result in correcting problems.

4. Use of a Single Bid for Design/Build Contracts - Report

Mr. John R. Njord, Executive Director, Utah Department of Transportation (UDOT), explained the difference between design-build and design-bid-build. He noted that most projects are design-bid-build, but UDOT is required to report what is being done under both systems. He explained that until July 1, 2010, if only a single proposal is received, a transportation agency may award a transportation project that has an estimated cost of \$5,000,000 or less. The proposer must be qualified and eligible and the transportation agency must determine that the proposal is advantageous to the state and that the proposal price is reasonable. He asked that UDOT be allowed to continue to award a bid to a single bidder on a design-build contract that is less than \$5 million.

Ms. Linda Toy Hull, Director, Legislative and Government Affairs, UDOT, assisted in answering questions from the Committee.

5. Eminent Domain Appraisal Process

Mr. Njord explained UDOT's responsibility for building Utah's infrastructure. He explained that acquiring rights of way from private citizens is necessary and that they try to balance that with compensating the private property owner fairly.

Ms. Linda Toy Hull, Director, Legislative and Government Affairs, UDOT, distributed and explained "Summary of Steps in the Right of Way Acquisition Process." She explained UDOT's process of arbitration, mediation, and then the final step for using condemnation. She said only 0.17 of cases are settled by litigation and that UDOT has the lowest condemnation rate in the country.

Mr. Brent N. Bateman, Lead Attorney, Office of the Property Rights Ombudsman (OPRO), Department of Commerce, distributed "What is the Office of the Property Rights Ombudsman?" and explained why the Office was created and how they educate the public and individual property owners. He emphasized that private property owners have a statutory right to call on the OPRO for education, negotiation, mediation, and arbitration.

Mr. Eric Lyon, UDOT, Right of Way Division, explained that appraisers are chosen based on who is best suited for the job, their availability, and their past experience.

Mr. Niel Christensen, private property owner, told of the taking of his family's property for a sewer line and other services. He does not feel they were offered fair compensation for their property.

Mr. Wayne Christensen, private property owner, commented on the condemnation of property and the unfair compensation and misuse of eminent domain takings.

Mr. Allen Christensen, private property owner, talked about the difficulties that arise from trying to negotiate with entities that have the power of eminent domain.

Mr. Robert Fillerup, practicing attorney in Utah County, stated he has handled many condemnation cases and explained how the process works for private property owners. Most offers are settled because of the prohibitive costs to go to court and the history of most condemnation cases.

Mr. Thomas Duffen, attorney, related his experiences with the Christensen family and the condemnation of their property. He related the difficulties with the cost of appraisals, attorneys, and trying to prove damages.

Mr. Bateman responded to question from the Committee emphasizing the options for the property owner for mediation and arbitration in efforts of preventing the need for litigation.

Rep. Frank explained his intent to pursue legislation. He noted that it has precedence in other states and that attorney costs and the appraisal process will be addressed.

6. Four-day Work Week Program for Executive Branch Employees - Report

Mr. Jeff Herring, Executive Director, Department of Human Resource Management, reported on the "Working 4 Utah" initiative. He stated that customer satisfaction is the key and that his office is in the process of doing a survey to acquire that data. He distributed and reviewed a chart "Executive Branch Overtime Changes" that indicates the reduction and cost savings in overtime hours.

Mr. Michael Hansen, Manager of Planning, GOPB, explained one specific goal was to provide a better quality of life for workers. He stated that the cost savings is not going to reach the projected goal. Energy savings were \$500,000 with \$200,000 in janitorial savings. The Dan Jones poll being taken will also help indicated what impact the initiative is having on local governments when state government offices are not available all five days of the week.

7. Amended Campaign Finance Reports

Ms. Brown explained that this item was to discuss the appropriate level of campaign finance reporting for amended statements in order to achieve transparency to the public.

Rep. Allen said she will be working with the Ethics Interim Committee to further study campaign finance reporting. She told how many amendments to disclosure reports there were two years ago and the Committee is seeking an explanation for why amendments are being made to candidate reports.

8. Other Items / Adjourn

MOTION: Sen. Greiner moved to adjourn the meeting. The motion passed unanimously. Rep. Bigelow, Rep. Hendrickson, and Rep. Seelig were absent for the vote.

Chair Knudson adjourned the meeting at 11:42 a.m.